

1 JEFFREY BOSSERT CLARK  
2 Assistant Attorney General  
3 Environment and Natural Resources Division  
4 United States Department of Justice  
5 Washington, D.C. 20530

6 VALERIE K. MANN  
7 Environmental Enforcement Section  
8 United States Department of Justice  
9 P.O. Box 7611  
10 Washington, D.C. 20044-7611  
11 Tel: 202-616-8756

12 SHAWN N. ANDERSON  
13 United States Attorney  
14 Districts of Guam and the NMI  
15 MIKEL W. SCHWAB  
16 Assistant United States Attorney  
17 Suite 500, Sirena Plaza  
18 108 Hernan Cortez  
19 Hagåtña, Guam 96910  
20 Telephone: 671-472-7332

21 Attorneys for Plaintiff United States of America

22 UNITED STATES DISTRICT COURT  
23 FOR THE TERRITORY OF GUAM

24 UNITED STATES OF AMERICA,	)	
	)	
25 Plaintiff,	)	Civil Case No.
	)	
26 v.	)	COMPLAINT
	)	
27 GUAM POWER AUTHORITY and	)	
28 MARIANAS ENERGY COMPANY, L.L.C.,	)	
	)	
29 Defendants.	)	
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1 The United States of America (“United States”), by the authority of the Attorney General  
2 and through the undersigned attorneys, acting at the request of the Administrator of the United  
3 States Environmental Protection Agency (“EPA”), files this Complaint and alleges as follows:

4 **I. NATURE OF THE ACTION**

5 1. This is a civil action against the Guam Power Authority (“GPA”) and Marianas  
6 Energy Company, L.L.C. (“MEC”) (collectively the “Defendants”) for violations of the Clean  
7 Air Act (“CAA” or the “Act”), 42 U.S.C. §§ 7401-7671q, at the Cabras Power Plant (“Cabras  
8 Facility”) and the Piti Power Plant (“Piti Facility”), both in Piti, Guam (collectively “Facilities”).

9 2. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), the United States  
10 seeks injunctive relief and the assessment of civil penalties for violations of: (1) the National  
11 Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Coal- and Oil-Fired Electric  
12 Utility Steam Generating Units, referred to as the Mercury and Air Toxics Standards (“MATS”),  
13 set forth at 40 C.F.R. Part 63, subpart UUUUU, at the Cabras Facility; and (2) the NESHAP for  
14 Stationary Reciprocating Internal Combustion Engines, set forth at 40 C.F.R. Part 63, subpart  
15 ZZZZ (“RICE NESHAP”), at the Cabras Facility and the Piti Facility. The violations alleged in  
16 this Complaint continue to occur at the relevant units still in operation at these Facilities.

17 **II. JURISDICTION AND VENUE**

18 3. This Court has jurisdiction over the subject matter of this action, pursuant to 28  
19 U.S.C. §§ 1331, 1345, and 1355, and Section 113(b) of the Act, 42 U.S.C. § 7413(b).

20 4. Venue is proper in this District pursuant to Section 113(b), 42 U.S.C. § 7413(b),  
21 and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because the violations alleged in the Complaint  
22 are alleged to have occurred in, and Defendants conduct business in, this judicial district.

23 **III. AUTHORITY AND NOTICES**

24 5. Authority to bring this action is vested in the United States Department of Justice  
25 pursuant to Section 305 of the CAA, 42 U.S.C. § 7605, and 28 U.S.C. §§ 516 and 519.

26 6. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), notice of the  
27 commencement of this action has been provided to the Territory of Guam.  
28

1 **IV. DEFENDANTS**

2 7. Guam Power Authority is a public corporation created by the Government of  
3 Guam in 1968. 12 G.C.A. § 8101 *et seq.*

4 8. GPA is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

5 9. At all times relevant to this Complaint, GPA owned and operated Cabras Units 1,  
6 2, 3, and 4.

7 10. MEC is a Delaware corporation with its headquarters in Piti, Guam.

8 11. MEC is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

9 12. MEC owned Piti Units 8 and 9 until January 2019.

10 13. At all times relevant to this Complaint, MEC operated Piti Units 8 and 9.

11 14. Under an Agreement dated 1996 between MEC and GPA, ownership of Piti Units  
12 8 and 9 was transferred in January 2019 from MEC to GPA.

13 15. GPA is the current owner of Piti Units 8 and 9.

14 **V. CLEAN AIR ACT AND ASSOCIATED REGULATIONS**

15 A. National Emission Standards for Hazardous Air Pollutants (“NESHAPs”)

16 16. The Act establishes a regulatory program designed to protect and enhance the  
17 quality of the nation’s air resources so as to promote the public health and welfare. 42 U.S.C.  
18 § 7401(b)(1).

19 17. Section 112 of the Act, 42 U.S.C. § 7412, establishes a program, the National  
20 Emission Standards for Hazardous Air Pollutants (“NESHAPs”), for controlling emissions of  
21 hazardous air pollutants (“HAPs”) through the use of maximum achievable control technology to  
22 minimize HAP emissions.

23 18. Section 112(c) and (d) of the Act require EPA to publish a list of HAPs and a list  
24 of categories and subcategories of major and area sources of listed HAPs, and to promulgate  
25 regulations establishing emission standards, referred to as NESHAPs, for each category or  
26 subcategory of major and area sources of HAPs. The NESHAPs are codified in 40 C.F.R. Part  
27 63.  
28

1           19.     HAPs are pollutants that present, or may present, a threat of adverse human health  
2 effects such as cancer and birth defects. 42 U.S.C. § 7412(b)(2). HAPs are listed in Section  
3 112(b) of the Act, 42 U.S.C. § 7412(b), and include formaldehyde, acrolein, methanol,  
4 acetaldehyde, and mercury compounds.

5           20.     A “stationary source” is defined as any building, structure, facility, or installation  
6 that emits or may emit any air pollutant. 42 U.S.C. § 7412(a)(3) (incorporating the definition in  
7 Section 111(a)(3) of the CAA, 42 U.S.C. § 7411(a)(3)).

8           21.     A “major source” of HAPs is “any stationary source or group of stationary  
9 sources located within a contiguous area and under common control that emits or has the  
10 potential to emit considering controls, in the aggregate, 10 tons per year or more of any  
11 hazardous air pollutant or 25 tons per year or more of any combination of hazardous air  
12 pollutants.” 42 U.S.C. § 7412(a)(1).

13           22.     An “area source” is “any stationary source of hazardous air pollutants that is not a  
14 major source.” 42 U.S.C. § 7412(a)(2).

15           23.     CAA Section 112(i)(3) expressly prohibits operation of a stationary source in  
16 violation of an applicable NESHAP that has gone into effect: “After the effective date of any ...  
17 [NESHAP] applicable to a source, no person may operate such source in violation of such  
18 standard....” 42 U.S.C. § 7412(i)(3).

19     B.     NESHAP General Provisions: 40 C.F.R. Part 63, Subpart A

20           24.     On March 16, 1994, EPA promulgated the NESHAP General Provisions, codified  
21 at 40 C.F.R. Part 63, Subpart A (“Subpart A”). 59 Fed. Reg. 12,430.

22           25.     Subpart A includes general requirements that may be incorporated into NESHAPs  
23 such as the RICE NESHAP, 40 C.F.R. Part 63, Subpart ZZZZ, Table 8, and the MATS, 40  
24 C.F.R. Part 63, Subpart UUUUU, Table 9. 40 C.F.R. § 63.1(a)(4)(i).

25           26.     An “owner or operator” means “any person who owns, leases, operates, controls,  
26 or supervises a stationary source.” 40 C.F.R. § 63.2.

27           27.     An “affected source” is defined as a “collection of equipment, activities, or both  
28 within a single contiguous area and under common control that is included in a section 112(c)

1 source category or subcategory for which a section 112(d) standard or other relevant standard is  
2 established pursuant to section 112 of the Act.” 40 C.F.R. § 63.2.

3 28. Pursuant to 40 C.F.R. § 63.4(a)(1), no owner or operator shall “operate any  
4 affected source in violation of the requirements of this part.”

5 C. NESHAP for Stationary Reciprocating Internal Combustion Engines: Subpart ZZZZ

6 29. Pursuant to Section 112 of the Act, EPA promulgated the “National Emission  
7 Standards for Hazardous Air Pollutants: Stationary Reciprocating Internal Combustion Engines”  
8 (the “RICE NESHAP”), 40 C.F.R. Part 63, Subpart ZZZZ, §§ 63.6580-63.6675. The effective  
9 date of the RICE NESHAP was June 15, 2004.

10 30. An “affected source” to which the RICE NESHAP applies is any stationary  
11 reciprocating internal combustion engine located at a major or area source of HAP emissions. 40  
12 C.F.R. § 63.6590(a). A stationary reciprocating internal combustion engine is defined as any  
13 internal combustion engine that uses reciprocating motion to convert heat energy into mechanical  
14 work and that is not mobile. 40 C.F.R. § 63.6585(a).

15 31. “Compression ignition” is defined as “a type of stationary internal combustion  
16 engine that is not a spark ignition engine.” 40 C.F.R. § 63.6675.

17 32. A “black start engine” is defined as “an engine whose only purpose is to start up a  
18 combustion turbine.” 40 C.F.R. § 63.6675.

19 33. A stationary reciprocating internal combustion engine located at an area source of  
20 HAP emissions is “existing” if its construction or reconstruction was commenced before June 12,  
21 2006. 40 C.F.R. § 63.6590(a)(1)(iii).

22 34. The owner or operator of an existing stationary compression ignition  
23 reciprocating internal combustion engine located at an area source must comply with the  
24 applicable requirements in the RICE NESHAP by no later than May 3, 2013. 40 C.F.R.  
25 § 63.6595(a)(1).

26 35. The owner or operator of an existing stationary reciprocating internal combustion  
27 engine at an area source must comply with the emission requirements of Table 2d, line 3, and the  
28 applicable operating limitations of Table 2b of the RICE NESHAP. 40 C.F.R. § 63.6603(a).

Table 2d, line 3 requires that non-emergency, non-black start compression ignition reciprocating internal combustion engines meet an emission concentration for carbon monoxide (“CO”) of 23 parts per million by volume dry (“ppmvd”) at 15 percent O<sub>2</sub> or reduce CO emissions by 70 percent or more. 40 C.F.R. Part 63, Subpart ZZZZ, Table 2d, line 3. Table 2b contains operating limitations for owners or operators using an oxidation catalyst to limit CO concentrations in the reciprocating internal combustion engine’s exhaust. 40 C.F.R. Part 63, Subpart ZZZZ, Table 2b.

36. Pursuant to 40 C.F.R. 63.6612(a), owners or operators must conduct the applicable initial performance tests within 180 days of the compliance date of May 3, 2013, making October 30, 2013 the deadline for completing the performance tests for the RICE NESHAP. An owner or operator is not required to conduct an initial performance test provided that a previous performance test meets the requirements of 40 C.F.R. § 63.6612(b)(1) through (4), which include, among other things, that the previous test must be no older than two years.

D. NESHAP for Coal- and Oil-Fired Electric Utility Steam Generating Units:  
Subpart UUUUU

37. Pursuant to Section 112 of the Act, EPA promulgated the “National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units,” set forth at 40 C.F.R. Part 63, Subpart UUUUU, §§ 63.9980-63.10042, which is also known as the “Mercury Air Toxics Standard” or “MATS.”

38. An “affected source” to which the MATS applies is any individual or group of two or more new, reconstructed, or existing coal- or oil-fired electric utility steam generating units (“EGU”). 40 C.F.R. § 63.9982.

39. An “EGU” is defined as “a fossil fuel-fired combustion unit of more than 25 megawatts electric (‘MWe’) that serves a generator that produces electricity for sale.” 40 C.F.R. § 63.10042. “Fossil fuel-fired” means an EGU “that is capable of producing more than 25 MW of electrical output from the combustion of fossil fuels.” *Id.*

40. A oil-fired EGU is defined as “an electric utility steam generating unit meeting the definition of ‘fossil fuel-fired’ that . . . burns oil for more than 10.0 percent of the average

1 annual heat input during the 3 previous calendar years after the compliance date for [the EGU] in  
2 [40 C.F.R.] § 63.9984 or for more than 15.0 percent of the annual heat input during any of those  
3 calendar years.” 40 C.F.R. § 63.10042.

4 41. An EGU is “new” under the MATS if it commenced construction after May 3,  
5 2011, and is “reconstructed” if it commenced reconstruction after that date. 40 C.F.R. §  
6 63.9982(b) and (c). An EGU is “existing” if it is not new or reconstructed. 40 C.F.R. §  
7 63.9982(d).

8 42. An existing EGU must comply with the MATS by April 16, 2015. 40 C.F.R.  
9 § 63.9984(b).

10 43. An EGU subject to the MATS is required at all times to meet each emission limit  
11 and work practice standard in 40 C.F.R. Part 63, Subpart UUUUU, Tables 1 through 3, that  
12 applies to such EGU. 40 C.F.R. § 63.9991(a)(1). Subpart UUUUU, Table 2, line 5 applies to  
13 existing non-continental liquid oil-fired EGUs, and establishes the emission limits for either  
14 filterable particulate matter or total HAP metals or individual HAP metals. 40 C.F.R. Part 63,  
15 Subpart UUUUU, Table 2, line 5.

16 44. The owner or operator of each existing non-continental liquid oil-fired EGU  
17 subject to the MATS must demonstrate initial compliance with the applicable emission limits in  
18 Table 2, line 5 of the MATS through performance testing by no later than October 13, 2015,  
19 which is 180 days after the compliance date of April 16, 2015. 40 C.F.R. § 63.9984(b) and (f);  
20 see also 40 C.F.R. § 63.10011(a).

21 45. Pursuant to 40 C.F.R. § 63.10030(e), owners and operators that are required to  
22 conduct an initial compliance demonstration as specified in 40 C.F.R. § 63.10011(a) must submit  
23 a Notification of Compliance Status to EPA within 60 days after completion of the initial  
24 performance test in accordance with 40 C.F.R. § 63.9(h)(2)(ii).

25 E. Enforcement of CAA

26 46. CAA Section 113(a)(3), 42 U.S.C. §7413(a)(3), authorizes EPA to bring a civil  
27 action in accordance with Section 113(b) of the CAA when EPA finds that any person has  
28

1 violated or is in violation of CAA requirements including the federal emissions standards for  
2 HAPs at Section 112 of the Act, 42 U.S.C. § 7412.

3 47. CAA Section 113(b), 42 U.S.C. § 7413(b), authorizes the United States to  
4 commence a civil action against an owner or operator of an affected source for a permanent or  
5 temporary injunction, or for a civil penalty, or both, whenever such person has violated any  
6 requirement or prohibition of any rule promulgated under Section 112 of the Act, 42 U.S.C.  
7 § 7412.

8 48. Pursuant to CAA Section 113(b), 42 U.S.C. § 7413(b), and 40 C.F.R. § 19.4, any  
9 person who fails to comply with the CAA or its implementing regulations shall be subject to a  
10 civil penalty in an amount up to \$37,500 per day for each violation occurring after January 12,  
11 2009 through November 2, 2015, and up to \$99,681 per day for violations that occurred after  
12 November 2, 2015.

## 13 VI. GENERAL ALLEGATIONS

14 49. Cabras Units 1 and 2 were constructed in 1974 and 1975 with boiler and steam  
15 turbine technology and are fueled with #6 heavy fuel oil, which is also known as Residual Fuel  
16 Oil ("RFO").

17 50. Cabras Units 3 and 4 were constructed in 1995-1996 and were powered by slow-  
18 speed diesel engines, which were fueled with RFO. These Units were not equipped with an  
19 oxidation catalyst, and did not reduce CO emissions.

20 51. Piti Units 8 and 9 were constructed in 1999 and are powered by slow-speed diesel  
21 engines, which are fueled with RFO. These Units were not equipped with an oxidation catalyst,  
22 and did not reduce CO emissions.

23 52. MEC operates Piti Units 8 and 9 pursuant to a contract dated 1996 that transferred  
24 ownership of Piti Units 8 and 9 to GPA in January 2019.

25 53. Fuel is combusted at the Facilities to generate electricity. The fuel combustion  
26 process causes hazardous air pollutants, including formaldehyde, acrolein, methanol,  
27 acetaldehyde, and mercury compounds, to be emitted to the atmosphere.  
28



1           54.     Cabras Units 1, 2, 3, and 4, and Piti Units 8 and 9 each emit air pollutants. Each  
2 unit is therefore a “stationary source,” as defined at 42 U.S.C. § 7412(a)(3) and 40 C.F.R. § 63.2.

3           55.     The Cabras Facility and the Piti Facility are each an “area source” as defined at 42  
4 U.S.C. § 7412(a)(2) and 40 C.F.R. § 63.2.

5           56.     At all relevant times, GPA has been “owner” and “operator” of the Cabras Units  
6 1, 2, 3, and 4, as defined at 42 U.S.C. § 7412(a)(9) and 40 C.F.R. § 63.2. Since January 2019,  
7 GPA has been the “owner” of Piti Units 8 and 9, as defined at 42 U.S.C. § 7412(a)(9) and 40  
8 C.F.R. § 63.2.

9           57.     At all relevant times, MEC has been the “operator” of Piti Units 8 and 9, as  
10 defined at 42 U.S.C. § 7412(a)(9) and 40 C.F.R. § 63.2. At all relevant times until January 2019,  
11 MEC was the “owner” of Piti Units 8 and 9, as defined at 42 U.S.C. § 7412(a)(9) and 40 C.F.R.  
12 § 63.2.

13           58.     Cabras Units 3 and 4, which were constructed in 1995-96, and Piti Units 8 and 9,  
14 which were constructed in 1999, are existing compression ignition stationary reciprocating  
15 internal combustion engines as defined under the RICE NESHAP. Each unit is therefore an  
16 “affected source” under the RICE NESHAP. Each unit operates at an area source and was  
17 required to comply with the RICE NESHAP by no later than May 3, 2013. 40 C.F.R.  
18 § 63.6595(a)(1).

19           59.     The deadline for completing the initial performance tests for the RICE NESHAP  
20 for Cabras Units 3 and 4 and Piti Units 8 and 9 was October 30, 2013, which is 180 days after  
21 the compliance date of May 3, 2013. 40 C.F.R. § 63.6612(a).

22           60.     On March 27-28, 2013, MEC conducted an emissions test for Piti Units 8 and 9,  
23 which qualified as a substitute for an initial performance test under 40 C.F.R. § 63.6612(b).  
24 According to the emission test results, Piti Unit 8 emitted 36.9 ppm of CO at 15 percent O<sub>2</sub>,  
25 which is approximately 60 percent over the emission limit of 23 ppm; Piti Unit 9 emitted 48.7  
26 ppm of CO at 15 percent O<sub>2</sub>, which is approximately 112 percent over the emission limit.

27           61.     On October 9 and 11, 2012, GPA conducted an emissions test for Cabras Units 3  
28 and 4, which qualified as a substitute for an initial performance test under 40 C.F.R.

1 § 63.6612(b). According to the emission test results, Cabras Unit 3 emitted 89.5 ppm of CO at  
2 15 percent O<sub>2</sub>, which is approximately 289 percent over the emission limit of 23 ppm; Cabras  
3 Unit 4 emitted 104.1 ppm of CO at 15 percent O<sub>2</sub>, which is approximately 353 percent over the  
4 emission limit.

5 62. Cabras Units 1 and 2, which were constructed in 1974-75, are existing oil-fired  
6 EGUs, as defined under the MATS. Each unit is therefore an “affected source” under the  
7 MATS. Each unit operates at an area source and was required to comply with the MATS by no  
8 later than April 16, 2015. 40 C.F.R. § 63.9984(b).

9 63. The deadline for completing the initial performance tests pursuant to the MATS  
10 for Cabras Units 1 and 2 was October 13, 2015, which is 180 days after the compliance date of  
11 April 16, 2015. 40 C.F.R. § 63.9984(b) and (f).

12 64. On January 19-21, 2011, GPA conducted an emissions test for HAPs on Cabras  
13 Unit 1. According to the emission test results, Cabras Unit 1 emitted filterable particulate matter  
14 and five HAP metals at rates that exceeded the emission limits for filterable particulate matter  
15 and individual HAP metals set out in 40 C.F.R. Part 63, Subpart UUUUU, Table 2, line 5.

16 65. On August 17, 2013, GPA conducted an emissions test for particulate matter on  
17 Cabras Unit 1. According to the emission test results, Cabras Unit 1 emitted 0.877 pounds (“lb”)  
18 per megawatt/hour (“MWh”) of particulate matter with high sulfur RFO and 0.806 lb/MWh with  
19 low sulfur RFO, which exceeded the emission limits of 0.3 lb/MWh for filterable particulate  
20 matter set out in 40 C.F.R. Part 63, Subpart UUUUU, Table 2, line 5.

21 66. Based on information and belief, GPA fueled Cabras Units 1 and 2 with RFO on  
22 each day the units operated on and after April 16, 2015. GPA did not switch to natural gas or  
23 distillate fuel oil (e.g., diesel oil) to fuel Cabras Units 1 and 2, and did not install an emission  
24 control device such as an electrostatic precipitator capable of 90 percent particulate control  
25 efficiency.

26 67. Based on information and belief, GPA has not conducted initial performance tests  
27 for Cabras Units 1 and 2, and has not submitted a Notification of Compliance Status to EPA, as  
28 required by the MATS.

1                                   **VII.        FIRST CLAIM FOR RELIEF (RICE NESHAP)**

2            68.     The United States realleges and incorporates by reference Paragraphs 1 through  
3 67, as if fully set forth herein.

4            69.     Based on the initial performance test results, GPA operated Cabras Units 3 and 4  
5 in violation of the emission limitations in 40 C.F.R. Part 63, Subpart ZZZZ, Table 2d, line 3,  
6 starting on May 3, 2013, and continuing on every day of operation that Cabras Units 3 and 4  
7 were fueled with RFO between May 3, 2013 and August 31, 2015, when Cabras Units 3 and 4  
8 were shut down due to an explosion and subsequent fire. GPA is also liable as the owner of  
9 Cabras Units 3 and 4.

10          70.     Based on the initial performance test results, MEC operated and continues to  
11 operate Piti Units 8 and 9 in violation of the emission limitations in 40 C.F.R. Part 63, Subpart  
12 ZZZZ, Table 2d, line 3, starting on May 3, 2013, and continuing on every day of operation after  
13 May 3, 2013, that Piti Units 8 and 9 were or are fueled with RFO. MEC is also liable as the  
14 former owner of Piti Units 8 and 9. GPA is liable as the current owner of Piti Units 8 and 9.

15          71.     Pursuant to Section 113(b) of the Act, permanent injunctive relief is appropriate  
16 to secure compliance with the Act on account of each of the above violations of the RICE  
17 NESHAP, and Defendants are liable for civil penalties for each day of each such violation.

18                                   **VIII.    SECOND CLAIM FOR RELIEF (MATS)**

19          72.     The United States realleges and incorporates by reference Paragraphs 1 through  
20 67, as if fully set forth herein.

21          73.     Based on available emission test results, GPA operated and continues to operate  
22 Cabras Units 1 and 2 in violation of the emission limitations in 40 C.F.R. Part 63, Subpart  
23 UUUUU, Table 2, line 5, starting on April 16, 2015, and continuing on every day of operation  
24 after April 16, 2015, that Cabras Units 1 and 2 were or are fueled with RFO. GPA is also liable  
25 as the owner of Cabras Units 1 and 2.

26          74.     GPA failed to conduct the initial performance test required by 40 C.F.R.  
27 §§ 63.9984(b) and (f), and 63.10011(a).  
28

1           75.     GPA failed to submit a Notification of Compliance Status to EPA within 60 days  
2 after completion of the initial performance test in accordance with 40 C.F.R. §§ 63.9(h)(2)(ii)  
3 and 63.10030(e).

4           76.     Pursuant to Section 113(b) of the Act, permanent injunctive relief is appropriate  
5 to secure compliance with the Act on account of each of the above violations of the MATS  
6 NESHAP, and GPA is liable for civil penalties for each day of each such violation.

7                               **IX. PRAYER FOR RELIEF**

8           WHEREFORE, Plaintiff, the United States of America, respectfully requests that this  
9 Court:

10           1.     Order GPA to take all necessary steps to comply with the RICE NESHAP and the  
11 MATS NESHAP, and order MEC to take all necessary steps to comply with the RICE NESHAP;

12           2.     Assess civil penalties for each violation of the CAA and its implementing  
13 regulations as set forth in this Complaint in an amount up to \$37,500 per day for each violation  
14 occurring after January 12, 2009 through November 2, 2015, and up to \$99,681 per day for  
15 violations that occurred after November 2, 2015;

16           3.     Order Defendants to take other appropriate actions to remedy, mitigate, and offset  
17 the harm to public health and the environment caused by the violations of the CAA alleged  
18 above; and  
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4. Grant such other and further relief as the Court deems just and proper.

Date \_\_\_\_\_

FOR THE UNITED STATES OF AMERICA:

JEFFREY BOSSERT CLARK  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

1/16/2020  
Date

  
VALERIE K. MANN  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice

SHAWN N. ANDERSON  
United States Attorney  
Districts of Guam and NMI

1/16/2020  
Date

/s/ Mikel W. Schwab  
MIKEL W. SCHWAB  
Assistant U.S. Attorney

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Valerie K. Mann, U.S. Department of Justice, P.O. Box 7611,  
Ben Franklin Station, Washington, DC 20044, 202-616-8756

## DEFENDANTS

GUAM POWER AUTHORITY and  
MARIANAS ENERGY COMPANY, L.L.C.

County of Residence of First Listed Defendant **Piti**  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Graham Botha, General Counsel, Guam Power Authority,  
P.O. Box 2977, Hagatna GU 96932

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
**42 U.S.C. §§ 7401-7671q of the Clean Air Act**

Brief description of cause:  
**Injunctive Relief and Civil Penalties for violations of the Clean Air Act**

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

02/05/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ Valerie K. Mann

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_